



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1244 SPEER BLVD, SUITE 310
DENVER, CO 80204-3582

REGION VIII
ARIZONA
COLORADO
NEW MEXICO
UTAH
WYOMING

October 10, 2019

Ms. Laura L. Dunn, Esq.
1629 K Street, NW
Suite 300
Washington, DC 20006

Sent via email only to: LDunn@lauraldunnesq.com

RE: Arizona State University
OCR Case Number: 08-19-2255

Dear Ms. Dunn:

On September 17, 2019, we received your complaint alleging Arizona State University (University) discriminated and retaliated on the basis of sex. We have determined that we have the authority to investigate this complaint consistent with our complaint procedures and applicable law.

Specifically, you allege that the University fostered a sexually hostile environment when it failed to appropriately address reported ongoing retaliation against your client, a Ph.D. student, by two fellow PhD students in the Bio-Inspired Mechatronics Lab, after your client filed an internal sexual harassment complaint against their former shared Ph.D. advisor and lab supervisor.¹

OCR is responsible for enforcing Title IX and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in education programs and activities that receive Federal financial assistance from the U.S. Department of Education. Additionally, individuals filing a complaint, participating in an investigation, or asserting a right under Title IX are protected from intimidation or retaliation by 34 C.F.R. § 106.71, which incorporates 34 C.F.R. § 100.7(e). As a recipient of Federal financial assistance from the Department, the University is subject to this law and regulation. Additional information about the laws OCR enforces is available on our website, at www.ed.gov/ocr.

Because we have jurisdiction and the complaint was filed timely, we are opening this allegation for investigation. Please note that opening the allegation for investigation in no way implies that we have made a determination with regard to its merits. During the investigation, OCR is a neutral fact-finder, collecting and analyzing relevant evidence from the complainant, the recipient, and other sources, as appropriate. OCR will ensure that its investigation is legally sufficient and is dispositive of the allegations, in accordance with the provisions of Article III of the *Case Processing Manual*.

¹ Your client reported *quid pro quo* sexual harassment to the University in January 2019, and after an investigation, the University found the PhD advisor/lab supervisor responsible for sexual harassment on August 18, 2019.

Our goal is the prompt, appropriate resolution of the complaint. While we are proceeding with an investigation, there are other approaches that can achieve this goal. Information on OCR's complaint processing procedures is available at <http://www.ed.gov/ocr/complaints-how.html>. In particular, please note the section on Facilitated Resolution Between the Parties (FRBP). Under this voluntary, informal approach, similar to mediation, OCR helps facilitate settlement discussions between you and the University. **You have expressed an interest in FRBP.** If the University is also interested, we will assign a facilitator from our office. Staff assigned to conduct FRBP of a complaint shall not be staff assigned to the investigation of that complaint.

Please also note the section on resolution of a complaint prior to the conclusion of an investigation. If the University expresses an interest in resolving the complaint and OCR determines that resolution of the complaint prior to the completion of the investigation is appropriate, OCR may attempt to negotiate an agreement with the University pursuant to Section 302 of the *Case Processing Manual*.

If our investigation establishes that there has been a violation of law, we will attempt to negotiate a remedy. If we are unable to secure appropriate remedial action, we must initiate formal enforcement action by commencing administrative proceedings seeking the termination of Federal funds to the University or a referral to the Department of Justice. These enforcement procedures will be initiated only if a violation is found and then only if we are unable to negotiate voluntary remedial action.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, we will seek to protect, to the extent provided by law, personal information, which if released, could constitute an unwarranted invasion of privacy.

Individuals filing a complaint or participating in our resolution process are protected from retaliation by Federal law.

We are committed to prompt and effective service. If you have any questions, please contact Ginger Yee, the attorney assigned to this case at (303) 844-4556 or by email at ginger.yee@ed.gov or me at (303) 844-5927 or by email at tom.rock@ed.gov.

Sincerely,



Thomas M. Rock
Supervisory General Attorney
Denver Enforcement Office